

(A Govt. of Maharashtra Undertaking)
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Consumer Grievance Redressal Forum
"Vidyut Bhavan", Gr. Floor,
L.B.S.Marg,Bhandup (W),
Mumbai – 400078.

REF.NO. Member Secretary/CGRF/MSEDCL/BNDUZ/

Date

Case No. 635

Hearing Dt.

04.05.2016

In the matter of change of tariff category

M/s. Him Feb Enterprises

- Applicant

Vs.

M.S.E.D.C.L., Kolshet Sub Division - Respondent

Present during the hearing

A - On behalf of CGRF, Bhandup

- 1) Shri. Anil Bavthankar, Chairman, CGRF, Bhandup
- 2) Shri.Ravindra S. Avhad, Member Secretary, CGRF, Bhandup.
- 3) Dr. Smt. Sabnis, Member, CGRF, Bhandup.

B - On behalf of Applicant

- 1) Shri.Sanjay Naikdhure - Consumer Representative.

C - On behalf of Respondent No. 1

- 1) Shri. Vijay Sonawale, Addl. Executive Engineer, Kolshet Sub Division.

ORDER

1. This is a Consumer having No.00080765479, sanction load 41KW, demand Load 52KW, date of connection 22.03.2014 and category of 17LT II (Industrial purpose). It is submitted by the consumer that he gave application to respondent utility on 07.03.2013 informing that his earlier Business of fabrication/stitching has been changed to laundry activities

(dry-clean of clothes) since 15/03/2013. Consumer thus requested to change the tariff category.

2. But the Respondent utility failed to respond to the application of consumer. The consumer had given a letter to the respondent utility on 05.03.2013. But despite this letter, till July 2015 utility did not take any action. It is only on 04.12.2015, respondent utility suddenly changed the category from Industrial to commercial and issued the bill of accumulated arrears for 27 months along with notice under section 52(2) and demanded difference of arrears with accumulated bill amounting Rs. 30570/-.
3. After receiving the said accumulated bill along with notice under section 5(2), consumer filed grievance before IGRC, alleging that recovery for 27 months is illegal and incorrect.
4. The consumer relied upon the order passed by CGRF in Case No. 528 of Cinemax Cinemas Pvt. Ltd. Case 585 of M/s. Sidhanchal CHS, directing respondent utility that arrears of 24 months only can be claimed.
5. Therefore, the accumulated bill and notice is illegal and against the rules and regulation described under section 56(2) of E.A., Act.
6. Consumer has also prayed for compensation of Rs. 5000/- for not taking any action on the request letter and to hold an enquiry for the same. Consumer has filed copy of letter dated 07.03.2013, the accumulated bill for 27 months and notice under section 56(2) for disconnection.
7. The complaint is registered under No.15/2015, opportunity of hearing given on 03.07.2015 and 30.10.2015. IGRC decided the complaint and issued an order to revise the bill from April 2010 to March 2015. IGRC also directed to take suitable action against the erring employee, causing loss of

revenue of the utility. Being dissatisfied with the order of IGRC, consumer has filed complaint before the Forum.

8. After filing the said complaint before this Forum, notice was issued to the respondent utility. After receiving the notice respondent utility appeared and filed reply dated 04.05.2016.
9. It is contention of respondent utility that after the consumer issued letter on 07.03.2013, month wise bill was prepared after change of tariff from Industrial to commercial .However, since the consumer was benefited under policy of cross –subsidy to encourage Industrial consumer, it is duty of the consumer to inform change of commercial tariff.
10. It is contention of respondent utility that section officer sub-division office visited the premises and found the category of tariff as industrial category. In fact it was required to charge as commercial. According to utility consumer many time visited section office of sub division and he requested for change of category there is no record or the receipt of document filed by consumer nor consumer produce any document to that effect. However consumer filed this application alleging the utility not change the category as per his contention for the period of 2 years. It is impossible to believe utility kept silent and continue charge industrial tariff. As per decision of IGRC action section 126 of E.A. 2003 against the consumer and issued threat recovery arrears give form the date of his application the objection stage by the consumer is wrong and give start the said business was prior two the date of information and the letter issued by him the consumer is liable to be charged the commercial tariff since date of connection 22.03.1994 the respondent utility prayer for the dismissal of the complaint with cost. The respondent utility filed reply and by giving monthly calculation sheet in since April 2013 to March 2015.

11. I have given opportunity to the consumer and representative and also section Engineer sub division. We have perused all the documents and correspondence between consumer and respondent utility.

12. After perusing the rival contentions of consumer and respondent utility, following points arose for our consideration:

1] Whether accumulated bill and notice under section 56(2) of E.A. Act 2003 issued is legal and valid

2] Whether consumer is liable to pay electricity bill as per change of tariff from Industrial to commercial for 27 months.

3] Whether consumer is entitled for any relief.

3] What ordered?

We answer first two questions negatively and question no 3 positively for the reasons stated herein below

Reasons

13. It appears on the record that initially supply was given to the consumer from the date of connection 22.03.1994 under industrial category. There after the demand was increased. It is pertaining to note that consumer has alleged that he had informed the utility about change in business activity since inception of such change. The letter was issued to the respondent utility, Dhokoli section on 07.03.2013. However, no action was taken for change of tariff by respondent utility official within stipulated time. Consumer filed another letter dated 20.02.2015, informing utility the change of activity. However no document is filed by the consumer to show when the activity was actually changed, thereby enabling the utility to

change the tariff from Industrial to commercial. In absence of any such record, no exact period can be determined by this Forum.

14. However as consumer has admitted the change of activity and informed the utility disclosing in this intention earlier vide letter dated 20.02.2016.

15. It appears from the record that the action was not at all taken by respondent utility. No reasonable explanation is submitted before the Forum. It is also observed by the Forum that IGRC has ordered for proper inquiry and action against the erring officer, as his inaction has resulted in blockage of revenue recovery, ultimately causing loss to the respondent utility. This clearly indicates that the consumer cannot be held responsible for the act.

16. Considering accumulated bill issued by respondent utility on 04.12.2015 for accumulated arrears for the change of category from the date of information (by letter of consumer dated 20.02.2015), the period of calculation of arrears is calculated from April 2013 to June 2015. This is for 27 months. Thus the consumer has rightly objected for recovery of bill as it not legally permissible to recover for more than 24 months from the date of detection. But here in this case consumer himself had informed and well aware of the fact that the activity of his proposed business falls under commercial category.

17. The question before this Forum is whether recovery should be allowed from the date of detection, or from the date of letter issued by consumer. When it is within the knowledge of consumer to my view change should be effected from actual date of change of activities as admitted by the consumer. Here in this case, since April 2013. IGRC has rightly decided the issue and gave direction to respondent utility for issuing revised bill to

the consumer. As there is no fault on the part of consumer, no interest and DPC can be recovered. Therefore in view of section 56(2) of E.A. Act 2003 which describe as follow 56(2) *Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum become first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied and the licensee shall not cut off the supply of the electricity.* The accumulated recovery of bill as issue to the consumer in Dec. 2015 for loss of Rs. 305912.09/- was calculated charging commercial tariff after perusing the calculation sheet issued by the respondent utility for the time of hearing the calculation was made considering fix charges consumer object to the said calculation sharing that their no excuse for the reading of meter as he paid the bill as per reading arras under the category of industrial tariff and therefore since April 2013 the respondent utility ought to have calculated the units under commercial category properly. No interest and DPC shall be charge against the consumer. After hearing of the said dispute it appears that consumer is not at all any objection but respondent utility then officer Mr. Deshmukh, Section Engineer failed to take proper action on the request application filed by the consumer within stipulated time to effect change the tariff and claim arrears. Considering the said dispute as the objection raised by the consumer appears to be legal, valid and proper, accumulated arrears recovery should be restricted for period of 24 months in view of section 56(2) At the time of hearing consumer requested for grant of repayment amount allow to pay in six installments to avoid financial burden

on him. Since there is no fault of the part of consumer, I have decided to give the benefit in payment of arrears can be recovered within in six monthly installments along with current bill. I am inclined to allow the complaint and proceed to pass following order.

ORDER

- 1) The consumer complaint No. 635/2015 is allowed. Recovery of accumulated bill for 27 month and notice being illegal and improper, stands withdrawn and set aside.
- 2) The respondent utility is directed to recover the accumulated arrears only for 24 months (from April 2013 to June 2015). The revised bill amount shall be recovered in six monthly installments.
- 3) The respondent utility is directed to hold proper inquiry and take suitable action against erring officer.
- 4) The respondent utility to pay cost of Rs. 1000/- to the consumer

Both the parties be informed accordingly.

Proceedings closed.

The order is issued under the seal of Consumer Grievance Redressed Forum M.S.E.D.C. Ltd., Bhandup Urban Zone, and Bhandup.

Note:

- 1) If Consumer is not satisfied with the decision, it may proceed within 60 days from date of receipt of this order to the Electricity Ombudsman in attached "Form B".

Address of the Ombudsman
The Electricity Ombudsman,
Maharashtra Electricity Regulatory Commission,
606, Keshav Building,
Bandra - Kurla Complex, Bandra (E),
Mumbai - 400 051

2) If utility is not satisfied with order, it may file representation before the Hon. High Court within 60 days from receipt of the order.

I Agree/Disagree

I Agree/Disagree

**DR. ARCHANA SABNIS
MEMBER
CGRF, BHANDUP**

**ANIL P. BHAVTHANKAR
CHAIRPERSON
CGRF, BHANDUP**

**RAVINDRA S. AVHAD
MEMBER SECRETARY
CGRF, BHANDUP**